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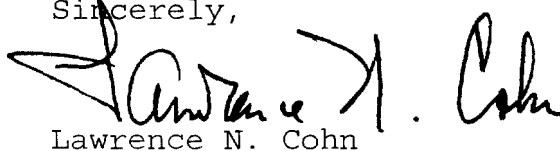
February 9, 1998

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

Dear Ms. Salas

On behalf of Kent S. Foster, there are herewith submitted an original and four (4) copies of his Comments and Counterproposal in MM Docket No. 97-244 (RM 97-244). In these Comments and Counterproposal Mr. Foster proposes that the Commission allot FM Channel 291A to Leakey, Texas.

Sincerely,



Lawrence N. Cohn

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BEFORE THE

# Federal Communications Commission

In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(Kerrville, Texas)

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MM Docket No. 97-244  
RM-9200

To: Chief, Allocations Branch

Comments and Counterproposal

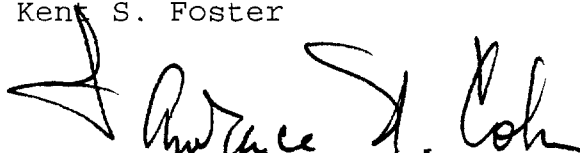
Kent S. Foster ("Foster"), by his attorneys, hereby submits these Comments and Counterproposal with reference to the Commission's Notice of Proposed Rule Making in MM Docket No. 97-244 (RM-9200) released December 19, 1997, wherein the Commission proposed to amend the FM Table of Allotments by adding FM Channel 291A at Kerrville, Texas.

For the reasons explained in the attached Engineering Statement of Mark Peabody, Foster proposes that, instead of allotting Channel 291A to Kerrville, Texas, the Commission should instead allot Channel 291A to Leakey, Texas.

Foster has authorized the undersigned to state that if Channel 291A is allotted to Leakey, Texas, he will submit a construction permit application for the station and, if authorized to do so by the Commission, will construct and operate said station. <sup>1/</sup>

Respectfully submitted,

Kent S. Foster

A handwritten signature in black ink, appearing to read "Lawrence N. Cohn", written over a horizontal line.

By: Lawrence N. Cohn  
Cohn and Marks  
1920 N. Street, NW  
Suite 300  
Washington, DC 20036  
(202) 293-3860

His Counsel

Dated: February 9, 1998

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<sup>1/</sup> Foster is concurrently filing Comments and Counterproposal to add Channel 291A to Mason, Texas. That proposal is consistent with the instant proposal and with Foster's representations herein (but is inconsistent with the proposal in the NPRM to add Channel 291A to Kerrville, Texas).

Engineering Statement  
**Counter Proposal to RM 9200 - MM Docket 97-244**  
**to Amend the FM Table of Allotments (§73.202(b))**  
**Addition of Channel 291A at Leakey, Texas**

prepared for  
**Kent Foster**

**Introduction**

*Kent Foster* ("*Foster*") respectfully requests the Federal Communications Commission to amend Section 73.202(b) of its rules to add FM Channel 291A at Leakey, Texas instead of Kerrville, Texas (RM-9200). *Foster* seeks to provide a second local aural service to the town of Leakey in Real County, Texas.

**Ch. 291A at Leakey, Texas**

Leakey is a city with a population of 595 people occupying 1.4 square kilometers as of the 1990 U.S. Census. The town of Leakey is the county seat for Real County. Approximately 45 county employees and several Leakey City employees are managed out of Leakey City. The city of Leakey has a number of features which conform to the definition of a community. Leakey has approximately nine (9) churches, a one campus (K-12) school (Leakey Independent School District), a Chamber of Commerce, a volunteer emergency medical service crew and fire department, a 911 system, a health clinic, various community retail stores (e.g. Ace Hardware, a video rental outlet, etc) a city water system, and a building for the local Bandera Electric Cooperative.

Leakey is situated near the Frio River, just a short distance north of Garner State Park. Real County personnel describe the region as one of the more heavily used camping and recreational areas in Texas. Leakey hosts a multi-day rodeo over the July Fourth holiday with significant arts & crafts and tourism events.

Leakey is an under served area for FM aural service. Only two FM stations' respective class contours encompass the proposed reference point: KAYG(FM)(CP),

Engineering Statement  
**Petition for Rulemaking**  
(Page 2 of 3)

Ch. 256A, Camp Wood, Texas and KBLT(FM) Ch. 282A, Leakey, Texas. There are no identifiable AM broadcast stations within 60 km of the proposed reference point.

*Foster's* proposed reference point for Leakey (North Latitude 29° 46' 21" West Longitude 99° 48' 52") incorporates a 7.1 km site restriction to the northwest because of a proposed modification to the table of allotments for Ch. 291A for KRBH at Hondo, Texas. The proposed reference point meets all pertinent minimum distance separation requirements for Channel 291A with respect to domestic, United States stations.

The proposed reference point is approximately 111 kilometers from the U.S. Mexico Border. Leakey is within the 320 kilometer "strip" considered the "border area" in the 1992 U.S. - Mexico FM agreement. *Foster* therefore respectfully petitions the Commission to request from Mexico that a coordinated allotment be made for Leakey on Channel 291AA. *Foster's* proposed reference point for Ch. 291AA with 6.0 kW/100m AAT facilities at Leakey meets all pertinent separation requirements toward identifiable Mexican stations and allotments as a Class AA station.

The use of Channel 291A at *Foster's* proposed reference point (North Latitude 29° 46' 21" West Longitude 99° 48' 52") incorporates a 7.1 km site restriction to the northwest of Leakey. From the proposed reference point, a 6.0 kW/100 meter Class A facility will be able to encompass the town of Leakey with a 3.16 mV/m or better principal community signal strength contour. From the proposed reference point, within the Class A class contour distance of 28 kilometers, there are 2,462 square kilometers and 3,103 people as of the 1990 U.S. Census.

**Ch. 291A at Leakey Compatible With Ch. 291A at Mason, Texas**

*Foster* is simultaneously filing a counterproposal to add Ch. 291A at Mason, Texas instead of Kerrville, Texas. The proposed reference point for Leakey is 121.9 km distant from *Foster's* proposed reference point for Mason, Texas. (North

Engineering Statement  
**Petition for Rulemaking**  
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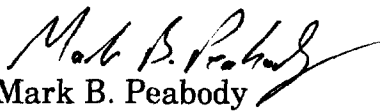
Latitude 30° 44' 55" West Longitude 99° 13' 49"). Section 73.207(b) of the FCC Rules requires a minimum separation of 115 km. Thus, *Foster's* proposals to add Ch. 291A at Leakey and Mason are compatible. *Foster's* proposed reference point for Leakey is 71.9 km distant from the proposed reference point for Kerrville. Thus, the instant proposal to add Ch. 291A at Leakey is mutually exclusive with the proposal to add Ch. 291A at Kerrville.

**Conclusion**

*Foster* respectfully requests that the Commission amend Section 73.202(b) to allot Channel 291A to Leakey, Texas with the reference point North Latitude 29° 46' 21" West Longitude 99° 48' 52" with a 7.1 km site restriction to the northwest. Allotment of Channel 291A to Leakey will provide a second local aural service to the town.

**Certification**

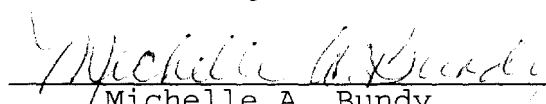
I, Mark B. Peabody, hereby certify that the foregoing statement for Ch. 291A at Leakey, Texas for *Kent Foster* was prepared by me or under my direction, that it is true and correct to the best of my knowledge and belief, and that my qualifications are a matter of record with the Federal Communications Commission.

  
Mark B. Peabody  
February 9, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have, this Ninth day of February, 1998, sent copies of the foregoing Comments and Counterproposal by first class United States Mail, postage prepaid, to:

Bradford D. Carey, Esq.  
Hardy and Carey, L.L.P.  
111 Veterans Boulevard  
Suite 255  
Metairie, Louisiana 70005  
Counsel for The Stronghold  
Foundation, Inc.

  
Michelle A. Bundy